



## **Development Services Department**

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### **BOARD OF ZONING APPEALS CITY OF JOHNSON CITY, TENNESSEE**

Minutes of the Meeting of  
April 1, 2014

The Board of Zoning Appeals held its meeting on April 1<sup>st</sup> at 6:00 p.m. in the City Commission Chambers of the Municipal and Safety Building.

#### **Members Present**

Dr. Mike Marchioni, Chairman  
Dwight Harrell  
Jenny Lockmiller  
Jamie Povlich  
Robert Thomas

#### **Staff Present**

Steve Neilson, Development Coordinator  
James Epps, Staff Attorney

The meeting was called to order at 6:00 p.m.

#### **Minutes**

The Minutes of the March 11<sup>th</sup> meeting were considered for approval.

**MOTION: Harrell**                      **To approve the minutes of the March 11<sup>th</sup>.**

**SECOND: Povlich**

**VOTE: Approved 4 - 0**

#### **Case Number 777-1**

Mr. Neilson indicated that this was a variance request to Section 11.2.2 of the Parking Regulations regarding parking between the building and the street. The property is located at 500 West Walnut Street, the former General Mill Property. He stated that the request also included the Mize Property at 929 W. Watauga Avenue and the vacant property at 508 West Walnut Street. He stated that there may have been some confusion as to what exactly was included in the request because the packet grouped all the property under one address point. However, the maps sent out to adjoining property owners and the site plan included all three parcels.

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Currently, the property is zoned B-2, B-3, and B-4. A portion of the property is being rezoned to B-3. The petitioner is the Evolve Development Group. The petitioner indicates that he needed the variance to keep the two of the buildings out of the floodplain. However, in order to the parking requirements, the petitioner would have to put some parking along the front of the property. In order to mitigate the impact along State of Franklin Road, the petitioner was proposing to construct a landscaped berm approximately 15 feet wide and three feet high. This request is similar to one made by the Monarch Development Group on the old Mullican Flooring property which the Board approved in December.

Mr. Neilson stated that this property is located in the Brush Creek watershed which empties into the Downtown. The city has spent millions to help mitigate the flooding in the Downtown. Staff felt that pushing the buildings into the floodplain did not service any public purpose and is contrary to the city's stormwater efforts.

Mr. Neilson then read 13-7-207 and expanded each section of the provision and how it related to this request.

Mr. Neilson stated that due to the property being impacted by the floodplain and being surrounded on all four sides by streets, staff found that a special circumstance or condition existed relating to this property. Also, forcing the buildings into the floodplain did not advance and public good and was contrary to the city's stormwater plan. He then recommended approval of the request conditioned upon the property being rezoned to B-3 and the petitioner providing a berm along State of Franklin Road.

Mr. Epps stated that he has reviewed the letter sent from Ms. Lee questioning the Board's authority to review this request and he assured them that they did have the authority based on the criteria found in the state statute to review this request.

Mr. Thomas McKee, representing the petitioner spoke in favor of this request. He stated that he supported staff's position. He then had Jerry Petzoldt address the hardships in marketing and developing the property.

The petitioner, Mr. Scott Austin spoke in favor of the request. He described the proposed 15 foot vegetative berm along State of Franklin Road.

Ms. Amber Lee spoke in opposition to the request. She stated that the Board must make an affirmative finding of fact on seven standards presented by the applicant. She then described each of those seven standards and why she felt that the petitioner did not meet those standards and that the Board should deny this request.

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After some additional discussion, Mr. Thomas moved to approve the variance request.

**MOTION: Thomas      To approve the variance request conditioned upon the property being rezoned to B-3 and the developer provide a berm along State of Franklin Road, and the joining of the properties into one parcel.**

**SECOND: Povlich**

**VOTE: Approved 3-1 (Lockmiller).**

### **Case Number 780-1**

Mr. Neilson stated that at the request for a variance to reduce the side yard setback from 10 feet to 8 feet for a principle building in order to construct a 400 square foot addition. The property is located at 317 Holly Street and the petitioner is Michael Gouge.

Mr. Neilson stated that in order to justify any variance, a special circumstance or condition must exist that is unique to the property. Reasons include; exceptional narrowness, shallowness or shape of a specific piece of property. Although this was a corner lot, there was nothing unique about the property. He then recommended denial of this request.

The petitioner, Mr. Michael Gouge spoke in favor of the request. He stated that due to a progressive disability he really needed a downstairs bedroom and a handicap bathroom. He felt that the addition would not be visible from the street, and the adjoining duplex has two rental units so there would be minimum impact.

After some discussion regarding possible options, Mr. Harrell made a motion to approve the request conditioned upon a landscape buffer against the adjoining duplex. The motion failed due to a lack of a second. Mr. Thomas then moved to deny the variance request.

**MOTION: Thomas      To deny the variance request.**

**SECOND: Povlich**

**VOTE: Approved 3-1 (Harrell).**

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### **Case Number 780-2**

Mr. Neilson stated that at the request for a variance to reduce the side yard setback from 10 feet to 1.5 feet in order to construct an attached carport. The property is located at 205 Sequoyah Drive and the petitioner is Harold and Sharon Ott.

Mr. Neilson stated that the petitioners have a raised ranch with steep steps. The petitioners intend to have their 86 year old mother come live with them and it would be difficult to get up and down the steps. They would like to put a carport on the left side of the house where the property is level with the front door.

Mr. Neilson indicated that the petitioner could build a driveway without the carport which would allow for easier access to the front entrance. He indicated that staff has been contacted by the adjoining property owner who is opposed to this request. The property owner was concerned that the carport would be too close to her property line.

Mr. Neilson stated that there was no special condition or constraint on the property to justify a variance. He then recommended denial of the request.

The petitioner, Mr. Harold Ott, spoke in favor of the request. He indicated that he wanted to move his elderly mother-in-law into the home. She is handicapped she would have difficulty using the stairs. The carport would be 50 feet from the adjoining neighbor's home. The carport was necessary to shelter her from the weather.

After some additional discussion, Mr. Povlich moved to deny the variance request.

**MOTION: Povlich To deny the variance request.**

**SECOND: Lockmiller**

**VOTE: Approved 3-1 (Harrell).**



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There being no further business, the meeting adjourned at 10:22 a.m.

### **APPROVED:**

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Dr. Mike Marchioni, Chairman  
Board of Zoning Appeals

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